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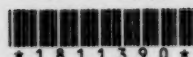
Report of the Independent Expert on the enjoyment of all human rights by older persons

Note by the Secretariat

Summary

The Secretariat has the honour to transmit to the Human Rights Council the report of the Independent Expert on the enjoyment of all human rights by older persons, Rosa Kornfeld-Matte, prepared pursuant to Council resolution 33/5. In the present report, the Independent Expert examines the impact of the social exclusion of older persons — an issue that she considers crucial to addressing existing protection gaps. The report provides an overview of the global policy framework and analyses social exclusion concepts, their various manifestations and the impact on the human rights of older persons. The analysis is followed by the Independent Expert's conclusions and recommendations aimed at assisting States in designing and implementing appropriate and effective frameworks to ensure the promotion and protection of the rights of older persons.

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Report of the Independent Expert on the enjoyment of all human rights by older person

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I. Introduction

1. The present report is submitted by the Independent Expert on the enjoyment of all human rights by older persons, Rosa Kornfeld-Matte, pursuant to Human Rights Council resolution 33/5. She examines, to the extent possible, social exclusion concepts and their various manifestations, as well as related challenges and protection gaps in the exercise of all human rights by older persons. The Independent Expert considers that this is a key issue, which requires further consideration, and stresses the need for a human rights-based approach in addressing any related protection gaps.

II. Activities of the Independent Expert

2. During the reporting period, the Independent Expert visited Georgia from 12 to 22 March 2018 (see A/HRC/39/50/Add.1) and Montenegro from 23 to 30 April 2018 (see A/HRC/39/50/Add.2). She expresses her appreciation to the Governments of those countries for their excellent cooperation before, during and after her visits and the fruitful and constructive dialogue.

3. On 3 and 4 October 2017, the Independent Expert held her first global consultation in Santiago on the theme of "The human rights of older persons and non-discrimination — putting older persons on an equal footing with others". The deliberations can be found in the summary of the event.¹ The meeting was organized in collaboration with the Pontifical Catholic University of Chile, the Economic Commission for Latin America and the Caribbean, the Group of Friends of Older Persons in New York and the Group of Friends of the Human Rights of Older Persons in Geneva,² and with the support and presence of the Chair of the Open-ended Working Group on Ageing and the Special Envoy of the Secretary-General on Disability and Accessibility. The Independent Expert also wishes to express her gratitude to the Office of the United Nations High Commissioner for Human Rights (OHCHR) and its Special Procedures Branch for the support it provided in relation to the global consultation.

4. The consultation brought together an array of actors and stakeholders, including numerous representatives from States, civil society, national human rights institutions and experts from academia, regional human rights mechanisms and international organizations. Some 300 participants attended the plenary sessions and 17 keynote speakers from all over the world intervened and exchanged views and good practices on the full spectrum of the rights of older persons. Concrete proposals were put forward, including on how to build on the momentum of the cross-regional consensus generated by the Independent Expert and her comprehensive thematic report to the Human Rights Council in 2016 (A/HRC/33/44) towards the adoption of an international instrument on the protection and promotion of the rights of older persons.

5. Participants in the meeting sought to develop concrete proposals and identify actionable recommendations to enhance the protection of older persons and ensure their enjoyment of human rights everywhere and at all times. The objective was threefold: first, to sensitize multipliers and increase their receptiveness for the human rights concerns of older persons and to inform them about the current global state of affairs with regard to promotion and protection efforts in relation to the human rights of older persons in general. Secondly, to discuss lacunae and potential strengthening tools for the protection of the rights of older persons based on state-of-the-art research and the findings of specialists in various relevant fields, thereby ensuring an informed debate among all stakeholders. Through this approach, participants sought to break through existing silo thinking, since the concerns of older persons cut across a number of areas. The presentations exhibited the

¹ Rosa Kornfeld-Matte and Carmen Luz Belloni, eds., "Human rights of older persons and non-discrimination" (2017).

² The Group of Friends of the Human Rights of Older Persons was launched by Argentina and Slovenia on 8 June 2016.

latest scientific evidence and covered a broad range of issues of relevance to older persons and ageing, including the need to shift from an assistance model to a human rights-based approach towards older persons; the right to health; autonomy and independence; social inclusion for a better ageing process; the social and economic security of older persons; human rights, ageing and well-being; and regional visions of the human rights of older persons. Thirdly, participants explored the way forward and avenues for global institutional strengthening. The Special Envoy on Disability and Accessibility also made a special presentation entitled "Human rights instrument: from proposal to application — the international Convention on the Rights of Persons with Disabilities".

6. The Independent Expert welcomes the appointment of María Soledad Cisternas Reyes as the Special Envoy on Disability and Accessibility. The consultation exemplified the important contribution of this new mandate for the promotion of the rights of older persons with disabilities, with a particular emphasis on accessibility for all. The Independent Expert wishes to recall in this regard that older persons constitute the most heterogeneous of all age groups and that many of them continue to face significant protection gaps. While some older persons will become increasingly dependent on the help of others in old age for several reasons — such as illness, impairments or loss of mobility — and may require varying degrees of specific care, others may be in good health and may be able to live independently or autonomously throughout their lives, particularly if adequate attention is paid to their specific needs.

7. In discussing the way forward, participants in the consultation facilitated a dialogue between both Groups of Friends and existing mechanisms, namely the Open-ended Working Group on Ageing, the Special Envoy on Disability and Accessibility and the Independent Expert. That also allowed a discussion of next steps, in recognition of the progress achieved so far, including that the cross-regional consensus had been consolidated and that the discussions in New York had gained new impetus and direction through the cross-fertilization of the various mechanisms and the findings in the comprehensive thematic report of the Independent Expert in 2016.

8. On 25 and 26 October 2017, the Independent Expert, together with the Special Rapporteur on the rights of persons with disabilities, hosted the first expert group meeting on supporting the autonomy and independency of older persons with disabilities in New York, drawing on the report of the Independent Expert on the autonomy and care of older persons (A/HRC/30/43) and the findings in her comprehensive thematic report, which marked a shift in the discussion on older persons. Participants in the expert meeting discussed the intersectionality between disability and ageing in the exercise of autonomy and independence, and explored the potential of international and regional human rights instruments, in particular the Convention on the Rights of Persons with Disabilities, to ensure accessible, appropriate and affordable community-based support services.

9. The expert meeting identified a number of gaps, such as the lack of standards on the rights of older persons with disabilities, the lack of a disability perspective in ageing (or ageing with disability) in public policies, legislation with arbitrary age provisions, the negative image of ageing, the lack of disaggregated data on older persons and the insufficient participation of older persons with disabilities in discussions on those issues. The experts agreed that closer cooperation between communities of older persons and persons with disabilities was fundamental, including in the area of advocacy, where the latter had more experience. That could result in increased awareness of and references to the rights of older persons with disabilities in the United Nations human rights machinery and its instruments, including the Convention on the Rights of Persons with Disabilities. In that regard, experts noted that only 0.3 per cent of all recommendations made in the universal periodic review process of the Human Rights Council were focused on the rights of older persons.

10. In relation to the previous annual report of the Independent Expert on the impact of automation on the human rights of older persons (A/HRC/36/48), the mandate participated in a conference on human rights in a digital age in Geneva on 24 May 2018. The objective was to identify the opportunities provided by big data, artificial intelligence and associated technologies and their potential human rights implications, including and beyond privacy.

11. On 17 and 18 April, the Independent Expert participated in an expert round table on palliative care for older persons hosted by the International Association for Hospice & Palliative Care, at which she gave a keynote address on the theme of "Leaving no one behind: palliative care for older persons in the 2030 Agenda". She provided an overview of the global demographic dynamics, with a focus on the situation in Latin America, and the current state of international human rights law. She outlined the global progress made since she assumed her mandate and the existing protection gaps in general and with regard to care models for older persons.

12. The Independent Expert would like to express her appreciation to the Office of the United Nations High Commissioner for Refugees for the opportunity to contribute, both individually and jointly, with a group of non-governmental organizations, to the draft global compact on refugees, focusing, *inter alia*, on the need for disaggregated data and for recognizing and catering for the specific needs of older persons affected by forced displacement.

13. On 11 June 2018, the Independent Expert participated as speaker in two panel discussions during an intersessional seminar on the protection of the family and human rights of older persons, pursuant to Human Rights Council resolution 35/13. Outlining the international framework for the protection of the family and human rights of older persons, the Independent Expert stressed that the assistance and support provided by family members and communities could not substitute for the obligation of States to promote and protect all human rights of older persons. She also made concrete and solutions-oriented recommendations for greater protection of the family and the human rights of older persons in the light of the radical changes some societies are undergoing, such as changes in family patterns or lifestyles, as well as challenges related to migration and urbanization and the progressive erosion of the traditional multigenerational family setting, which leaves more and more older persons without a family and therefore without care. In particular, she stressed the need for home care services and other forms of alternative care support, targeted and non-contributive social protection systems and public awareness campaigns to counter stereotypes about older persons, which are among the root causes of violence against and maltreatment and abuse of older persons, which often occur in the family setting.

14. The Independent Expert has identified elder abuse as a priority area for her mandate and has continued to undertake targeted activities in this area. In a statement to mark World Elder Abuse Awareness Day on 15 June 2018, she drew attention to the fact that many older persons are at risk of being abused by their own relatives or those they trust. Financial abuse of older persons is rampant but largely invisible. She stressed that the older person's best interests had to be the overriding consideration when differentiating between a transfer of assets made with consent and an abusive one, and noted that financial abuse reflected a pattern of behaviour rather than a single event, and typically occurred over a period of time. She called on everyone to report suspected cases of abuse of older persons, as this was one of the few ways to stop financial abuse. Together with the Inter-American Commission on Human Rights, the Independent Expert also issued a press statement to raise awareness of World Elder Abuse Awareness Day.

15. The Independent Expert also contributed to a side event on the occasion of World Elder Abuse Awareness Day on the theme of "Violence, abuse and neglect of older persons: a violation of human rights", which was co-organized by OHCHR, the World Health Organization (WHO), the Group of Friends of the Human Rights of Older Persons and the NGO Committee on Ageing, Geneva. In preparation for the discussion at the upcoming session of the Open-ended Working Group on Ageing, in her message the Independent Expert focused on how different forms of violence, abuse and neglect had a direct impact on the denial of autonomy and a good standard of care.

16. At the time of the submission of the present report, the Independent Expert was also scheduled to participate, in accordance with her mandate, at the ninth session of the Open-ended Working Group on Ageing, to be held in New York from 23 to 26 July. The Independent Expert will contribute to the two focus areas of the session, namely autonomy and independence and long-term and palliative care in the context of measures to enhance the promotion and protection of the human rights and dignity of older persons.

III. Social exclusion: concepts, manifestations and the impact on the human rights of older persons

A. Background

17. Social exclusion refers to the separation of individuals and groups from mainstream society. While there is no generally agreed definition, the social exclusion of older persons is a complex process that involves the lack or denial of resources, rights, goods and services as people age and the inability to participate in societal relationships and activities, available to the majority of people across the varied and multiple domains of society. It affects both the quality of life of older persons and the equity and cohesion of an ageing society as a whole. Unlike related concepts such as poverty and deprivation, social exclusion provides a means to understand the dynamic and multilevel construction of old-age disadvantage.³

18. Social exclusion is a relative concept, which refers to the fact that it is assessed against a population base, for example the general population. It further involves agency: older persons are being excluded against their will or lack the agency to achieve integration for themselves, or choose to exclude themselves from mainstream society. While the social exclusion of younger people is dynamic or processual, with individuals and groups moving in and out of exclusion and experiencing different forms of exclusion over time, the experience of older persons vulnerable to exclusion may be less prone to change. Most definitions acknowledge the multidimensionality of social exclusion, for example in terms of the impact of exclusion on various domains of the lives of older persons.⁴

19. There are a number of risk associations or potential drivers of old-age exclusion, such as living alone, gender, ethnicity, or being very old. The relationship between social categorizations, such as gender, social class and ethnicity, and exclusion is complex, given the correlation with other risk factors, such as living alone and income. While gender, for instance, is not a significant predictor of overall exclusion, it is connected to certain individual domains, i.e. older women are more likely to be excluded from cultural activities, while they are less likely to be excluded from social relationships.⁵

20. Exclusion from material and financial resources in later life is one of the manifestations of social exclusion. Poverty can exacerbate the denial of basic human rights as well as limit choices and opportunities for a tolerable life. In many societies, older persons comprise a disproportionate number of the poor, the persistent poor and the poorest among the poor. In the countries of the Organization for Economic Cooperation and Development (OECD), 12.5 per cent of individuals aged over 65 live in relative income poverty and older women are at greater risk of poverty than older men.⁶ Risk factors for old-age poverty include a lack of access to regular income, to work and to health care, declining physical and mental capacities, and dependency within the household. Moreover, as people grow older, they tend to be progressively excluded from the formal and informal work market, but are often not or insufficiently protected by social security systems.

21. While adequate material resources are an important prerequisite for the social integration of older persons, there are other central aspects, such as the participation and integration of older persons in recognized social roles and the ways in which exclusion operates at a spatial level, namely how neighbourhoods are organized or perceived.

³ See Kieran Walsh, Thomas Scharf and Norah Keating, "Social exclusion of older persons: a scoping review and conceptual framework", *European Journal of Ageing*, vol. 14, No. 1 (March 2017).

⁴ See Peter Saunders, "Can social exclusion provide a new framework for measuring poverty?", Social Policy Research Centre, discussion paper No. 127, October 2003.

⁵ See Dylan Kneale, *Is Social Exclusion Still Important for Older People?*, the International Longevity Centre — UK, September 2012.

⁶ See OECD, *Pensions at a Glance*, 2017, p. 136.

22. More than half of the global population is currently living in cities, a number which is expected to rise dramatically in the next decades.⁷ Urban growth and demographic transformation are changing the way we experience urban environments throughout our lives and into older age. However, older persons are not routinely incorporated into the mainstream of thinking and planning around urban environments.

23. Urban spaces can act both as enablers and barriers for the realization and enjoyment of the right of older persons to lead dignified and autonomous lives. Rapid urbanization sometimes leads to gentrification, a process in which lower-income urban areas undergo significant change owing to an influx of investment and/or more affluent residents. In the process of gentrification, market interests tend to take precedence over the human rights of residents. It is not uncommon for public facilities, such as sheltered housing and community centres either to be closed down or privatized, thus demonstrating a diminishing role for the State in providing for its citizens. In that framework, a close consideration of ageing and urban change under the spectrum of social justice is considered necessary to ensure that the benefits of gentrification can be shared by all residents.

24. Gentrification, a term heavily loaded with both positive and negative connotations since it was first coined by Ruth Glass in 1964, is not easily understood, measured or operationalized. Characteristic elements of gentrification include capital reinvestment, the influx of high-income social groups, landscape changes and the displacement of poorer groups.⁸ It typically leads to an increase in housing costs, so low-income households, unable to find affordable housing, move towards the outskirts of the city in even more disadvantaged neighbourhoods than their previous residence. Loss of social ties also counts among one of the main risks of gentrification, as both those who leave and those who stay have to adapt to sharing their neighbourhood with strangers. On the other hand, those who remain in the gentrified area are also expected to benefit from improved levels of safety and services. Research in developing countries tends to refer to urban change, development or renewal and to slum clearance, rather than gentrification.

25. One of the main barriers to securing the rights of older persons on an equal basis with others and ensuring their social inclusion is the lack of acknowledgement of their contributions and of their untapped potential. That lack of understanding is deeply rooted in ageist stereotypes about what defines older persons. Prejudices about older persons being frail, sick and dependent drive their marginalization and legitimize exclusionary practices.⁹ Unlike other forms of discrimination, ageism is socially accepted and usually unchallenged, because of its largely implicit and sub-conscious nature. It is so pervasive in policy, planning and implementation that the ways in which older persons are left behind become invisible. It is essential to actively combat ageism, as this thinking impinges on the development of inclusive policies in general. In this regard, the Independent Expert stresses the importance of the global campaign to combat ageism initiated by WHO in 2016, which she fully supports.¹⁰

B. Global policy framework

1. Sustainable Development Goals

26. One of the major advances of the Sustainable Development Goals compared with the Millennium Development Goals is that they apply to developing and developed

⁷ See United Nations Department of Economic and Social Affairs, "World urbanization prospects: the 2014 revision (highlights)" (2014).

⁸ See Mark Davidson and Loretta Lees, "New-build 'gentrification' and London's riverside renaissance", *Environment and Planning A*, vol. 37, No. 7 (July 2005).

⁹ See World Economic Forum, *Global Population Ageing: Peril or Promise?* (2012); and Astrid Stuckelberger, Dominic Abrams and Philippe Chastonay, "Age discrimination as a source of exclusion in Europe: the need for a human rights plan for older persons" in *From Exclusion to Inclusion in Old Age: a Global Challenge*, Noah Keating and Thomas Scharf, eds. (Bristol, Bristol University Press, 2012).

¹⁰ See World Health Assembly resolution WHA69.3.

countries alike. Moreover, the 2030 Agenda explicitly acknowledges that human rights are essential components of sustainable development. The premise of the Goals to leave no one behind can help to promote inclusive development policies. That is particularly important because development approaches often fail to reflect the needs of older persons.

References to older persons in the framework of the Sustainable Development Goals are, however, rare. Target 2.2 specifically mentions older persons in terms of ending malnutrition. Some targets refer to "all" or people of "all ages" in relation to health, nutrition, education and tackling poverty. The language reflects the intention in the Goals to meet the needs of all social groups, which naturally includes older persons. It is also noteworthy that for most indicators for the Goals, implementation must be disaggregated by age. That is a precondition for policies to be able to specifically target older persons.

Particularly relevant for older persons is Goal 3, which aims to ensure healthy lives and promote well-being at all ages. It does not, however, include a specific target for older persons. Target 3.4, which aims to reduce premature mortality — defined as death before the age of 70 — from non-communicable diseases by one third, could exclude persons over the age of 70 from prevention, cure or care, even though more than half of deaths from non-communicable diseases occur in this age group. The reference to premature rather than preventable death seems to perpetuate prejudices that devalue the lives of older persons and create room for unequal treatment.

Goal 11 recognizes the important role that cities play in sustainable development. It addresses the upgrading of slums in target 11.1 and also aims to achieve improvements in terms of housing, transport, public outdoor spaces, air quality, civic participation and prevention and response to disasters. Importantly, it also explicitly mentions older persons under targets 11.2 (transport) and 11.7 (public spaces).

Goal 11, however, does not include a target on social participation and the prevention of isolation in urban environments, which is an issue of critical importance for older persons. While the provisions of Goal 11 may facilitate the creation of accessible environments, there is no stress on the need to ensure that older persons remain engaged in their communities. The lack of opportunities for older persons to participate may contribute to their social exclusion and consequently the decline of their mental and physical health. City planning should facilitate the participation of older persons in all spheres of life, foster intergenerational exchange, help them to maintain social contacts and avoid segregation, and establish networks of support for those people who are at risk of social exclusion.

Goal 4, which aims to ensure inclusive and quality education for all, is not met with targets and indicators that can effectively improve opportunities for lifelong learning. The actions foreseen are clearly targeted towards children, youth, women and persons with disabilities. Target 4.4, which seeks to increase the development of skills, is linked with jobs and employability, therefore limiting its relevance to those active in the labour market. That constitutes a missed opportunity to call for real opportunities for lifelong learning, which would enhance the inclusion of older persons and their contribution to their communities.

Goal 10 seeks to reduce inequalities. While it refers to age discrimination as a ground of discrimination, the focus at target level is on income inequalities, which fails to encompass the many other types of discrimination that older persons face. In addition, indicator 10.3.1 seeks to gather information about the proportion of the population reporting having felt personally discriminated against or harassed within the previous 12 months on the basis of a ground of discrimination prohibited under international human rights law. That is deficient, as international human rights standards fail to adequately address all forms of discrimination of older persons. Age discrimination, while prohibited in several contexts, is legitimate in others. For example, mandatory retirement ages are considered acceptable in a number of countries, even though this infringes the right of older persons to work and earn a sustainable income. The lack of an internationally agreed definition of age discrimination in human rights law impedes States from a harmonized and equal application of Goal 10 for older persons.

Data and measurement constitute another challenge for the implementation of the Sustainable Development Goals. National and comparative surveys often operate with age

limits and do not include the very old and those living in institutions such as nursing homes, which considerably limits their informative value and the possibility of assessing the inclusion or exclusion of older persons. Moreover, data sets may reflect outdated, biased or incomplete views about older age. Typically, age cohorts, such as 60+, represent older persons as a homogeneous group. There is a lack of adequate differentiation that would allow reflection on the particular heterogeneity of the target group. Intersecting characteristics, such as being an older woman, an older migrant or an older person with a disability, are not necessarily accounted for. Data sets on poverty often fail to capture the real extent of the poverty older persons face. The focus on household income presupposes that older persons receive an equal share to other members of the household, whereas in reality the needs of children are often prioritized. Also, older persons may have additional needs, as a result, for instance, of their mobility limitations or health condition, which would actually require a larger share of the household income.

34. Ensuring that no older person is left behind requires more than simple references to "all ages". It is about recognizing the equal dignity and specific needs of older persons and about acknowledging and facilitating their past, present and future contribution to society through the application of a human rights-based approach to development.

35. While the Sustainable Development Goals seek to address some of the world's most blatant injustices, there is no specific focus on exclusion in older age or the neglect and discrimination of older persons, despite existing population dynamics. Mainstreaming existing human rights norms into the Goals was a colossal task. The lack of attention to the specific challenges older persons face, as opposed to the focus put on other groups, such as children or persons with disabilities, is certainly a reflection of the lack of a dedicated legal instrument for older persons.

36. The absence of dedicated human rights standards to ensure the inclusion of older persons has a negative impact on follow-up and implementation. The Danish Institute for Human Rights, for instance, has developed an online tool linking the Sustainable Development Goals to human rights obligations and aimed at helping to anchor implementation strategies to human rights obligations.¹¹ Similar efforts are being undertaken by OHCHR in linking the recommendations of the human rights mechanisms to the Goals in the Universal Human Rights Index. The few references to old age and older persons in international human rights law and in the Goals also result in there being little focus on this particular group by human rights mechanisms. Training materials and guidance targeting national implementation strategies are, as a result, unlikely to focus on older persons as a group. By contrast, the adoption of the Convention on the Rights of Persons with Disabilities and the obligations that derive from it sparked the publication of a wealth of material to guide the mainstreaming of disability rights into development policies.¹²

37. While the Sustainable Development Goals certainly represent an important opportunity to integrate the rights of older persons into the global development agenda, it remains unclear how the promise to leave no one behind will be met for older persons.

2. United Nations Conference on Housing and Sustainable Urban Development (Habitat III)

38. The New Urban Agenda adopted at the United Nations Conference on Housing and Sustainable Urban Development (Habitat III) seeks to reinforce global efforts for sustainable development in the context of urbanization.¹³ It offers a set of guidelines for States, local and regional authorities, civil society, United Nations agencies and others. It reflects a vision of urban settlements in which all persons enjoy equal opportunities thanks to inclusive, fair, safe, healthy and sustainable environments and policies. While it is non-binding, the New Urban Agenda, alongside the implementation of the Sustainable

¹¹ See <http://sdg.humanrights.dk/>.

¹² See, for example, www.un.org/development/desa/disabilities/about-us/sustainable-development-goals-sdgs-and-disability.html.

¹³ See <http://habitat3.org/the-new-urban-agenda/>.

Development Goals and human rights instruments, can help to address the human rights concerns of older persons, particularly in the face of gentrification and the related social exclusion.

39. The New Urban Agenda contains a total of 27 references to ageing, older persons, intergenerational issues and age. That is significant, bearing in mind that the initial draft contained only three such references. There is a remarkable focus on the participation of older persons in decision-making and enabling them to become co-designers of urban policies and development plans (see paras. 42, 92, 148, 155 and 156). That approach creates a solid foundation for genuine citizen involvement and recognizes older persons as potential contributors to urban change. It must however be noted that the majority of the 27 provisions merely refer to age-responsive approaches to urban development. While the mainstreaming of age alongside gender responsiveness is a welcome development, it is less evident how this commitment will be applied in practice. The concept of responsiveness is likely to focus on needs, vulnerabilities and weaknesses, as opposed to promoting the full potential of older persons. In addition, it has been argued that when human rights instruments refer to age-appropriate measures they tend to reflect the requirement to take into account the needs of children and youth based on existing human rights obligations and not necessarily those of older persons. There is a risk that this may also be the case with regard to the implementation of the New Urban Agenda.

40. The notion of intergenerational exchange, mentioned twice in the New Urban Agenda (paras. 13 and 99) is noteworthy, as it provides some more guidance about the way in which to achieve inclusive cities. Paragraph 20 also contains a specific reference to non-discrimination on the basis of age and there is a requirement to ensure that older persons are not disproportionately affected by revenue policies (para. 34).

41. The New Urban Agenda also explicitly refers to gentrification (para. 97), when addressing urban regeneration and slum upgrading, even though its implications are rather narrowly defined, failing to address issues around income security, health and access to goods and services, among others. There also is a commitment to engage in participatory approaches to urban development, "avoiding spatial and socioeconomic segregation and gentrification, while preserving cultural heritage and preventing and containing urban sprawl". References to displacement (paras. 107 and 111) and evictions (paras. 31, 107 and 111), seek to guarantee the right to housing, whereas in paragraph 114 there is a mention of transportation as a way to minimize the impact of displacement.

42. In paragraph 57 of the New Urban Agenda, which refers to the commitment to promote work and livelihood opportunities, there is an explicit mention of several societal groups as potential beneficiaries of targeted interventions, such as women, youth, persons with disabilities, indigenous peoples and local communities, refugees and internally displaced persons and migrants, but no recognition of the needs of older workers. There is also no recognition of the substantial contributions older persons make to the economy through formal and informal work. Overall, some of the drivers of economic exclusion in urban regeneration programmes that put older persons at an increased risk of poverty are not addressed in the Agenda and its provisions do not adequately secure the right of older persons to work and to secure their livelihood.

43. The reference to the right to health of older persons seems limited to the need to prevent non-communicable diseases by promoting walking and cycling (para. 113). Beyond that, older persons would require a general commitment to help them age in place. While the previous framework encouraged the establishment of voluntary programmes to prevent violence against older persons, in the current text an opportunity has been missed to address an important human rights concern for older persons.

44. Nevertheless, overall the New Urban Agenda constitutes a considerable improvement over the previous framework, which also included specific references to older persons but seemed guided by the notion of older persons as a vulnerable group. Although in the New Urban Agenda such simplistic views and stereotypes seem to have been overcome, it remains deficient in some respects. Together with the Sustainable Development Goals, it is not concerned with the full and effective participation of older persons in all spheres of life (i.e. economic, social, civic, political and cultural), nor does it

strive to prevent their social exclusion, which constitutes an important risk for older persons living in urban environments, especially in the context of gentrification.

C. Human rights impact

45. The realization of the right to an adequate standard of living is essential to preventing the social exclusion of older persons. It is generally considered to be indispensable to the fulfilment of all other rights and encompasses all the basic subsistence rights, such as adequate food and nutrition, clothing, housing and the necessary conditions of care when required. The aim is to ensure that everybody is able to live in conditions of dignity, in which they are able to satisfy their needs and interact with others. It has been interpreted to include the provision of health services, income, family and community support and self-help, and as such also relates to decent employment, health, long-term care and independent living in the community.¹⁴ In addition, article 25 of the Universal Declaration of Human Rights requires States to ensure the right to social security in old age.

1. Right to housing

46. Housing is an essential aspect of active ageing and of the ability of older persons to live an autonomous life and prevent them from being socially excluded. Many communities have been experiencing a decline in social housing stock and other housing problems. In the context of gentrification, housing increasingly becomes a marketable asset. That puts pressure on the provision of social and State housing and may even increase the number of persons sleeping in the street or other places unfit for human habitation. According to human rights law, housing is not a commodity, but a basic human right that calls for human rights-based solutions.

47. In general terms, the right to housing can be defined as the right to live somewhere in security, peace and dignity.¹⁵ It includes several aspects, notably legal security of tenure, the availability of services, materials and infrastructure, affordable housing, habitable housing, accessible housing, housing in a suitable location and housing constructed and sited in a way which is culturally adequate. The Committee on Economic, Social and Cultural Rights in its general comment No. 6 (1995) on the economic, social and cultural rights of older persons states that housing is more than shelter, as it encompasses a psychological and social dimension. It also covers the need for family support. The Committee also acknowledges that national policies should help older persons to continue to live in their own homes as long as possible.

48. In the context of gentrification, older persons may be faced with forced eviction, harassment or other threats to make them leave their place of residence (A/HRC/10/7/Add.2).¹⁶ Privatization and real estate investments may contribute to the unaffordability of land and housing for the urban poor, leading to increased homelessness and regression in the enjoyment of the right to housing.

49. As people grow older, they often feel the need to change their home because it is no longer adapted to their needs (e.g. too large, not barrier-free), but face considerable obstacles, particularly financial, as new rents may be significantly higher. Financial services, such as loans, mortgages or commercial insurance, to enable them to adapt their homes are often not available to older people or are prohibitively expensive because of the inappropriate use of age as a criterion, including for determining risk.

¹⁴ See Committee on Economic Social and Cultural Rights, general comment No. 6 (1995) on the economic, social and cultural rights of older persons; see also United Nations Principles for Older Persons.

¹⁵ See Committee on Economic Social and Cultural Rights, general comment No. 4 (1991) on the right to adequate housing, para. 7.

¹⁶ See also Committee on Economic Social and Cultural Rights, general comment No. 6. and general comment No. 7 (1997) on forced evictions.

50. The Committee on Economic Social and Cultural Rights has identified older persons as a disadvantaged group entitled to priority action in the housing sphere (E/2005/22-E/C.12/2004/9). Excessive rents, inflated housing costs, the unavailability of public housing and the lack of access to basic services can amount to discriminatory practices that require State intervention so that everyone has equal access to housing.¹⁷

2. Right to social protection

51. While many older persons can rely on contributory and non-contributory pensions to cover their basic subsistence needs, the majority of the world's older persons have no choice but to work in order to support themselves and their families.¹⁸ In many developing countries, older persons often have to engage in unpaid informal work owing to the unavailability or inadequacy of pensions. Having access to a secure income in later life, either through work or old-age pensions, is crucial in order to access essential services, such as health care.

52. To prevent poverty and social exclusion in old age, States have a duty to adopt social security measures (see A/HRC/14/31, para. 51). International human rights instruments establish the right of everyone to social security, including social insurance. Beyond ensuring the right to social security, the duty of States to implement social protection systems also flows from the right to an adequate standard of living and a number of related economic and social rights enshrined in several legally binding human rights treaties.¹⁹

53. Many States have privileged the establishment of contributory pension systems, which have left the majority of the older population unprotected. Estimates indicate that less than 20 per cent of older persons are covered by pensions and only about 25 per cent of the labour force is currently contributing or accruing pension rights (see A/HRC/14/31, para. 29). Moreover, contributory systems tend to exacerbate gender inequalities. There is a significant coverage gap of older women and in countries with broader protection in contributory systems, older women are more likely to receive a lower pension due to a lower level of contributions.

54. In its general comment No. 19 (2007) on the right to social security, the Committee on Economic, Social and Cultural Rights explicitly notes that States cannot rely solely on contributory systems for old-age pensions, as all individuals will not always be able to secure sufficient means to maintain an adequate standard of living. Within the limits of available resources, States must provide non-contributory old-age benefits to assist, at the very least, all older persons who, when reaching retirement age, are not entitled to an old-age insurance-based pension.

55. Non-contributory pensions are the only means by which universal pension coverage can be achieved and gender imbalances redressed, although social pensions should not be regarded as the sole response to old-age poverty. In addition to the obligation to establish universal coverage, States should pay attention to vulnerable conditions and adjust means to the true cost of living. That is particularly relevant for older persons, who may be unable to secure adequate resources through work owing to unemployment, old age and disability. In

¹⁷ See Scott Leckie, "The human right to adequate housing", in Asbjørn Eide, Catarina Krause, and Allan Rosas, eds., *Economic, Social, and Cultural Rights: a Textbook*, 2nd ed. (Leiden, Brill Publishers, 1995).

¹⁸ HelpAge International, "Working for life: making decent work and pensions a reality for older people" (2009).

¹⁹ See articles 22 and 25 of the Universal Declaration of Human Rights; articles 9, 10 and 11 of the International Covenant on Economic, Social and Cultural Rights; article 5 (e) (iv) of the International Convention on the Elimination of Racial Discrimination; article 11 of the Convention on the Elimination of All Forms of Discrimination against Women; article 26 of the Convention on the Rights of the Child; and article 27 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Article 28 of the Convention on the Rights of Persons with Disabilities also mentions the right to social protection.

addition, when faced with gentrification, older persons experience increasing costs and are at greater risk of poverty and exclusion.

56. The distribution of pensions and other cash transfers must not tie older persons to a single locality, as this could lead to further social exclusion, including in the context of gentrification.²⁰ In developing countries, older persons may have to travel for hours to receive their pensions. Ensuring that benefits are distributed at reasonable geographic locations is an integral part of accessibility. Modern alternatives (such as e- and mobile payments) for the distribution of old-age pensions are now deployed in several developing countries, but are not yet the norm. Due consideration has to be given to the accessibility of older persons, bearing in mind challenges relating to information technology literacy rates.

57. There is a need to overcome the burden-discourse and the stereotyping of older persons that also contribute to sociocultural exclusion. Social protection systems may act as economic stabilizers in critical periods and can have positive repercussions on local economies.

3. Right to work

58. Participation in the labour market enhances the self-esteem of older persons, their social inclusion and their financial security. The right of older persons to work includes the right to choose one's employment, the right to work in decent conditions and the right to be protected from unemployment (article 23 of the Universal Declaration of Human Rights). States must abstain from the adoption of measures that interfere with the right of older persons to work. They have an obligation to sustain working opportunities for the older population and should also empower older persons to participate in the economic life of their communities by offering training and opportunities for employment and good working conditions. In addition, they should provide unemployment programmes and adequate means of social protection.

59. Countries with inadequate non-contributory pension coverage, prohibitive age qualification thresholds, low-value pensions and high levels of informal employment are likely to have significant proportions of older persons working.²¹ As the employment of children and young people in developing countries declines, families depend more and more on the work of older persons.²² Owing to inadequate social protection systems, older persons are required to work to supplement their pension income. However, as a result of age discrimination, they have to take up low-paid, low-status informal jobs that are not linked to retirement benefits (A/67/188).²³ These include, for example, working as security for shops, blocks of apartments or factories and as street vendors, domestic workers, builders, etc. Women are even more disadvantaged in terms of formal job opportunities.

60. Mandatory retirement ages and age discrimination in recruitment procedures prevent older persons from finding jobs and continuing working, and may further social exclusion.²⁴ Older persons have a right to decide whether they want to work and what job is suitable for them. They should neither be forced to work nor to retire, but real choice is often impossible owing to barriers in law, lack of employment opportunities, the unavailability of pensions and the absence of support and reasonable adaptations for older workers. Women tend to be more disadvantaged with regard to formal and informal job opportunities because they have had limited access to education, land and other assets throughout their lives. As a result, older persons may end up doing demeaning and physically demanding work in extremely precarious conditions, or are unable to work and end up being deprived of essential goods and services.

²⁰ HelpAge International, *Investing in an Ageing World: Shifting Debates from Costs to Investments* (London, HelpAge International, 2017).

²¹ *Ibid.*, p. 92.

²² See Claudia Martin, Diego Rodríguez-Pinzón and Bethany Brown, *Human Rights of Older People. Universal and Regional Perspectives* (Springer Netherlands, 2015).

²³ See also HelpAge International, "Ageing and the city: making urban spaces work for older people" (2016).

²⁴ See Committee on Economic Social and Cultural Rights, general comment No. 6.

4. Right to health

61. Health is indispensable for the exercise by older persons of many other rights and for them to live a life in dignity. The right to health includes "preventive, curative and rehabilitative health treatment ... maintaining the functionality and autonomy of older persons ... attention and care for chronically and terminally ill persons, sparing them avoidable pain and enabling them to die with dignity".²⁵ It encompasses a spectrum of care that spans primary to palliative care. Its realization also involves the underlying determinants of health, such as access to water and sanitation, clean air, food and housing.

62. Older persons should be enabled to continue to live in their homes for as long as possible, to avoid both the physical and psychological disruptions involved in moving to an unfamiliar location (see A/64/127, para. 27). Depression, loneliness, anxiety and suicide rates increase in the occurrence of major life changes (A/67/188). Physical and mental health are interdependent and impact on each other. Social exclusion as a result of inaccessible community infrastructure, a lack of feeling of safety, the loss of social networks and other factors associated with urban regeneration, is detrimental to the physical health of older persons. It increases their exposure to risk, the absence of support and inadequate care and may lead to multiple pathologies and a reduction in life expectancy.

63. Urban planning in low- and middle-income countries often prioritizes vehicles and economic activity at the expense of safety and liveability, particularly for the most vulnerable street users.²⁶ In those countries, older persons engage in street-based activities and often have to walk or cycle long distances through congested streets that offer little safety to individuals owing to car-oriented strategies. Urban planners need to take into account the needs of older persons to travel and provide safe and accessible streets and pedestrian zones. In addition, affordable transportation and localized retail and other necessary services can reduce unnecessary journeys for older persons. Gentrification may also induce heavy traffic and increase air pollution, which disproportionately affects the health of older persons.²⁷

64. Policies should promote healthy ageing and tackle the key risk factors associated with urban living, including through awareness-raising, reducing air pollution and encouraging physical activity and affordable healthy food options.²⁸ Urban plans should include comprehensive health strategies to ensure that older persons have access to accessible, affordable, appropriate and good-quality health care, goods and services. In addition to providing services to address chronic conditions and acute illness, States should also develop local programmes to prevent the onset of disease and to offer rehabilitation.

65. State obligations also entail a duty to provide specialized geriatric care, as older persons have different patterns of disease presentation to younger adults and respond to treatments and therapies in different ways. They also frequently have complex social needs that are related to their chronic medical conditions and may contribute to their social exclusion. The provision of care services for older persons tends to be deprioritized because of prejudice and rationing. It is therefore important to integrate the needs of older persons in development plans to ensure that such services are available to the older population.

5. Right to independent living in the community

66. The right to independent living in the community derives from the right to an adequate standard of living and is interdependent with other rights. For example, older persons are unable to exercise their freedom of choice unless they have access to regular and adequate income through work or pensions. The enjoyment of this right does not only depend on personal autonomy and agency, but also on the social aspects of being part of a

²⁵ See Committee on Economic Social and Cultural Rights, general comment No. 14 (2000) on the right to the highest attainable standard of health.

²⁶ See HelpAge International, "Ageing and the city: making urban spaces work for older people", p. 9.

²⁷ Ibid.

²⁸ Ibid.

community.²⁹ It is therefore particularly relevant to explore how it may be affected when neighbourhoods and communities change, for instance because of rural to urban migration or gentrification.

67. Older persons have an equal right with others to decide where to live and with whom, and not to be forced into a particular living arrangement. This right includes having the necessary means and support enabling them to make decisions and live their lives in accordance with their wills and preferences.³⁰ Although the right to independent living is referred to in the context of persons with disabilities, international and regional standards enshrine the right of older persons to live in their own home for as long as possible and also to provide for support to age in place. That includes home care and assistance for families of older persons in need of care, which allows for a greater degree of autonomy than institutional care.³¹

68. Consequently, States have a duty not to interfere with the living arrangements of older persons. They need to be provided with individualized support to continue living in the setting of their choice. Furthermore, States should provide assistance to the families of older persons to allow older persons to remain in their homes for as long as they want and also to maintain the family unit.³² Support must not be tied to a specific locality so that older displaced persons are not stripped of it when forced to leave their places of residence. That is particularly important because older persons may lose useful informal networks that provide neighbourhood assistance when they move into another area. In practice, however, home care and personal assistance for older persons are largely inadequate, underdeveloped and underfunded, thus limiting the choice of older persons to age in place.

69. Living independently does not mean living alone or without support. That right mirrors personal autonomy and involves not being deprived of choice and control about personal lifestyle and daily activities.³³ The culture, habits, preferences and needs of the older person shape their decision about where, with whom and how they live their lives, and should be taken into account, as well as the support they require to be able to do so.

70. Independent living also calls for the inclusion and participation of older persons in the community. That includes access to all the services offered to the public without discrimination and to the necessary support services to enable older persons to be fully included and participate in all spheres of social life.³⁴ Those services encompass transport, health care, public spaces and buildings, shopping, volunteering, leisure, events of a political nature, sports, technology and any other activity in which the older person wishes to participate.

71. It also involves real opportunities for engagement with other social groups and for intergenerational activities, in which both older persons and youth participate on an equal basis. Older persons living in cities are at greater risk of feeling lonely and socially isolated.³⁵ Gentrification may further exacerbate social exclusion and segregation unless measures are taken to prevent such negative effects. It may alter the generationally mixed and heterogeneous character of neighbourhoods and may aggravate the marginalization of older persons, as well as cultivating ageist attitudes towards the older generation.

72. Gentrification disrupts lifestyles and networks. Older persons lose meeting points, such as community centres, places of worships, seniors' clubs or even public benches. The closure of institutions that are important to the older population considerably reduces their opportunities for social contact and civic participation. In addition, some activities and services rely heavily on volunteers. There is a need to ensure continuity of such informal

²⁹ See Committee on the Rights of Persons with Disabilities, general comment No. 5 (2017) on the right to independent living.

³⁰ *Ibid.*

³¹ See Committee on Economic Social and Cultural Rights, general comment No. 6.

³² *Ibid.*

³³ See Committee on the Rights of Persons with Disabilities, general comment No. 5.

³⁴ *Ibid.*

³⁵ HelpAge International, "Ageing and the city: making urban spaces work for older people", p. 13.

structures and supplement them as required for the most disadvantaged and isolated older persons.

73. Slum relocation and removal and dweller resettlement break up vital informal networks of disadvantaged persons that have been compensating for structural deficits. Urban strategies must not break those relationships of interdependence, but rather enhance social ties. They also need to include older persons in every step of decision-making to ensure that plans are inclusive and do not lead to marginalization and social isolation.

74. Older persons with dementia are likely to be disproportionately affected by changes in their neighbourhood. Familiar landmarks help people living with dementia to recognize their environment more easily.³⁶ Since urban regeneration considerably alters neighbourhood characteristics, persons with dementia can easily become disoriented, feel unsafe and avoid going out, which compromises their independence and autonomy.

75. The promotion of age-friendly environments is a strategy to ensure that neighbourhoods respond to the needs of older persons and preferences without leading to their isolation or invisibility. Urban planning must be geared towards the equal participation of older persons in society. That includes measures that enhance the safety of older persons (for example adequate lighting and safe pedestrian streets), accessible environments and policies that aim to enhance intergenerational exchange and inclusion in the community. States must take care to maintain social networks and to retain community centres and other structures and institutions that are important to older persons and enable them to meet and engage socially and civically. They can also facilitate the creation of informal networks around older persons that can help fight isolation, but also provide assistance, enhance their feeling of security and improve their quality of life.

76. Gentrification may improve the availability and accessibility of some services, such as the construction of new hospitals. On the other hand, however, it can also render health-related services inaccessible. Day-care centres may be privatized or moved to other parts of the city owing to rising rents. Such situations have a particularly adverse impact on older persons, who are more likely to suffer from chronic conditions and have greater health-care and support needs. The lack of such services infringes the right of older persons to an adequate standard of living, as it puts them at high risk of poverty, health decline and exclusion. Related facilities must be available within safe physical reach and be accessible for older persons.

77. Architectural barriers can seriously affect the daily lives of older persons. They may be unable to leave their houses or to access public buildings, shops and other spaces owing to a lack of elevators or inaccessible pavements. In addition to the physical aspects of accessibility (accessible streets, transport and buildings), States should also take into account affordability and informational accessibility.³⁷ The lack of accessible transport and neighbourhoods can lead to the social exclusion of older persons in both developed and developing countries.

IV. Conclusions and recommendations

78. The social exclusion of older persons is a complex process that involves the lack or denial of resources, rights, goods and services as people age, and the inability to participate in societal relationships and activities, available to the majority of people across the varied and multiple domains of society. It affects both the quality of life of older persons and the equity and cohesion of an ageing society as a whole, with significant implications for the enjoyment by older persons of their human rights.

79. Exclusion from material and financial resources in later life is one of the manifestations of social exclusion, which exacerbates the denial of basic human rights as well as limiting the choices and opportunities of older persons for a tolerable life.

³⁶ Ibid., p. 18.

³⁷ See Committee on Economic Social and Cultural Rights, general comment No. 14.

80. More than half of the world's population currently lives in cities, a number which is expected to rise dramatically in the next decades. Gentrification in the context of rapid urbanization may further contribute to the social exclusion of older persons. When lower-income urban areas undergo significant change owing to an influx of investment and/or more affluent residents, market interests tend to take precedence over the human rights of existing residents. As housing costs increase, older persons move to disadvantaged neighbourhoods on the outskirts of cities, losing their social ties and important reference points. Although gentrification has diverse effects on different people and groups, as services and safety may improve in gentrified areas, older persons tend to experience inequalities and marginalization in the context of urban regeneration and are more likely to experience poverty and other forms of social exclusion, as they are not routinely incorporated into the mainstream of thinking and planning around urban environments.

81. The Independent Expert notes that there is currently no specific universal human rights instrument on the rights of older persons. Specific provisions focusing on older persons, similar to those which exist for some other groups in focus, are therefore not currently available. Against that background, applying rights to older persons in the face of social exclusion can be challenging. The lack of a dedicated legal instrument for older persons may also explain the lack of attention to the specific challenges older persons face in the global policy framework, notably the Sustainable Development Goals, which guide the actions of the United Nations on the ground. It is primordial that the implementation of the Sustainable Development Goals is grounded in the normative framework to ensure the inclusiveness and sustainability of the gains over time.

82. The Independent Expert emphasizes the imperative to adopt a human rights-based approach to ageing. This entails taking active measures against ageism and reconceptualizing the way in which societies view older persons, from passive receivers of care and assistance and an impending burden on welfare systems and economies, to active contributors to society.

83. To foster the social inclusion of older persons, the Independent Expert stresses the need to mainstream their rights in development, in urban policies and in poverty reduction strategies, including by installing processes that allow policies and plans that promote or reinforce discrimination against older persons to be scrupulously scrutinized. It also requires a variety of housing options to be available, such as mixed and designated communities, age-adapted homes and flat-sharing concepts, to ensure that older persons can age in place and fully enjoy their right to adequate housing.

84. Social protection has an important role in preventing exclusion from material and financial resources in old age. Non-contributory systems are the only means to ensure universal coverage and address gender imbalances. The Independent Expert recommends the development of participatory mechanisms of policy design and approaches to development that allow for the active engagement of older persons in decision-making. Such initiatives should move from simple consultative mechanisms to co-research or co-design with or by older persons and take due account of involving diverse groups of older persons, notably those who experience multiple forms of discrimination and are particularly vulnerable to high incidences of poverty and social exclusion, especially older women, persons with disabilities, persons of African descent, individuals belonging to indigenous peoples, persons belonging to national or ethnic, religious and linguistic minorities, rural persons, persons living on the streets and migrants and refugees, among other groups.

85. There is a need to improve the knowledge basis regarding the living conditions, experiences, needs and rights of older persons through dedicated studies, monitoring and evaluation mechanisms, audits, inclusive data collection and non-discriminatory indicators that reflect the realities of older persons and can provide effective evidence for the equitable delivery and monitoring of the implementation of the Sustainable Development Goals, the New Urban Agenda and national policymaking. Investment in research at the intersection of disciplines is also required, in particular sociology, urbanism and human rights, to gain a better understanding of how to promote ageing

in place in an equitable manner, including during rapid urbanization and gentrification.

86. Equitable distribution of resources and services is essential to ensuring that older persons can enjoy their right to an adequate standard of living. That requires active inclusion through the adoption of positive measures to ensure older persons have equal access to housing, work, social security, health care, physical and social infrastructure and other forms of support.

87. The Independent Expert stresses the need to foster partnerships between multisector stakeholders, including local authorities, public health professionals, architects, housing providers, community organizations, universities, the private sector and older persons themselves, to develop innovative and inclusive responses to urban regeneration.

88. The Independent Expert stresses that the lack of a comprehensive and integrated international legal instrument to promote and protect the rights and dignity of older persons has significant practical implications, given that: (a) existing regulations do not cohere, let alone conceptualize regulatory principles to guide public action and the policies of Governments; (b) general human rights standards do not consider the recognition of third-generation specific rights in favour of older persons; (c) it is difficult to clarify the obligations of States with respect to older persons; (d) procedures for monitoring human rights treaties generally ignore older persons; (e) current instruments do not make the issues of ageing visible enough, which precludes the education of the population and with it, the effective integration of older persons.